

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions
FROM: Brian E. Bailey, Commissioner *BEB*
RE: Consolidation Matters Affecting Political Subdivisions
DATE: May 27, 2011

I. Introduction

Senate Enrolled Act ("SEA") 26-2011 adds new sections to IC 36-1-7 and IC 36-1-8, which concern the consolidation of services between political subdivisions ("units") and the consolidation of services within units, respectively, and amends IC 36-1.5-3-5 and IC 36-6-1.5-12, which address the Department of Local Government Finance's ("Department") adjustment to the levies, tax rates, and budgets of units reorganizing under IC 36-1.5 (the Government Modernization Act) and townships merging under IC 36-6-1.5, respectively.

II. Consolidations and Reorganizations Affected by SEA 26-2011

SEA 26-2011 amends the Government Modernization Act (36-1.5-3-5), which allows units to reorganize and become more efficient, and IC 36-6-1.5, which governs the merger of townships.

Similarly, SEA 26-2011 adds Section 16 to IC 36-1-7, which governs the consolidation of services between or among units, and adds Section 17 to IC 36-1-8, which governs the consolidation of services within a unit. These new sections apply to a unit if:

- 1) it enters into an agreement with one or more other units to transfer, combine, or share powers, duties, functions, or resources under IC 36-1-7-16 or it combines or reorganizes one of its departments, agencies, or functions under IC 36-1-8-17;
- 2) it realizes through the reorganization or the transfer, combination, sharing of powers, duties, functions, or resources a savings or reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the unit if the reorganization or transfer, combination, or sharing of powers, duties, functions, or resources had not taken place; and
- 3) the Department will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the unit to eliminate double taxation by different units for services or eliminate any excess by which the amount of property taxes imposed by the unit exceeds the amount necessary to pay for services.

In the case of a consolidation of services within or between units, the reorganization of units (including a reorganization through a cooperative agreement), or the merger of townships, the Department must establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if a unit (or successor unit) or new township described above realizes a savings or reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the unit or township had the consolidation, reorganization, or merger not taken place.

This adjustment must permit the unit or township to continue to impose part of the property tax levy and include in its budget part of the budgeted amounts that would both otherwise be reduced by the Department on account of the realized savings or reduction in expenses that occurs because of the consolidation, reorganization, or merger.

The additional amount that a unit or township may continue to levy or include in its budget because of the adjustment may not exceed the result of:

- 1) the savings or reduction in expenses realized in the first full year of operation after the consolidation, reorganization or merger is implemented, as determined by the Department, multiplied by:
- 2) a percentage determined as follows:
 - (A) Fifty percent (50%) in the first year of the adjustment.
 - (B) Fifty percent (50%) in the second year of the adjustment.
 - (C) Thirty percent (30%) in the third year of the adjustment.
 - (D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the unit or township must determine and certify to the Department the amount of the adjustment that the unit or township wishes to accept. The amount of any adjustment accepted by a unit or township must comply with the agreement under which the unit or township transfers, combines, or shares powers, duties, functions, or resources, or reorganizes or merges.

These amendments are effective July 1, 2011.

For example, Township A and Township B merge. The new merged township, Township C, realizes a savings of \$100,000 in the reasonably foreseeable expenses that would otherwise have been incurred by the townships had the merger not taken place. The Department would otherwise reduce the maximum levies by the savings, but following this law the Department may adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets by up to \$50,000 in the first year, \$50,000 in the second year, \$30,000 in the third year, and \$10,000 in the fourth year. Township C must determine and certify to the Department the amount of adjustment it wishes to accept in accordance with the merger agreement.

III. Contact Information

Questions may be directed to Staff Attorney Mike Duffy at 317-233-9219 or mduffy@dlgf.in.gov.